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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No.469/91

Date of Order: 11.2.1994

BETWEEN:

K.Pandayya Setty

.. Applicant.

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Union of India represented by:

1. The Secretary to Government,
Department of Posts, New Delhi .
2. The Post Master General,
Hyderabad.
3. The Superintendent of Post Offices,
Wanaparthy Division, Wanaparthy. .. Respondents.

Counsel for the Applicant

.. Mr.K.S.R.Anjaneyulu

Counsel for the Respondents

.. Mr.N.V.Ramana

CORAM:

HON'BLE SHRI A B.GORTHI MEMBER (ADMN.)

HON'BLE SHRI T.CHANDRASEKHARA REDDY : MEMBER (JUDL.).

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Order of the Division Bench delivered by
Hon'ble Shri A.B.Gorthi, Member (Admn.).

A new Branch Post Office was to be opened at Dawajipalli. A notification dated 6.7.90 was issued calling for applications from eligible candidates for appointment as EDBPM of Dawajipalli Branch Office. The applicant submitted his application together with all the requisite documents. His contention is that he was duly selected and was accordingly appointed as EDBPM. He took charge of the post w.e.f. 10.10.1990. To his surprise, however, he found that the respondents issued another notification dated 23.3.1991, once again calling for applications to fill up the very same post of EDBPM, Dawajipalli. Aggrieved by the same he has filed this application.

2. At the time of the admission of the O.A. an interim direction was given to the respondents not to make any fresh appointment in pursuance of the notification dated 32.3.1991. Consequently the applicant is continuing in his post even as on today.

3. The respondents in their reply affidavit have not refuted the material facts averred by the applicant in the application, ^{but} But have stated that ^{an} a compliant received by Sri B.Guruwaiah, one of the unsuccessful candidates, ^{the} The selection proceedings were reviewed and it was found that Sri B.Guruwaiah was infact a better candidate than the applicant. According

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to the reply affidavit, Sri B. Guruwaiah passed S.S.C. has a ^{study} study income from land and hence should have been selected in preference to the applicant who only passed 8th standard and has income from business which cannot be said to be a ^{study} study income.

4. We have heard learned counsel for both the parties and perused the relevant records. Mr. K.S.R. Anjaneyulu, learned counsel for the applicant has urged that the applicant having been subjected to a proper selection and having been given appointment as EDBPM, the respondents neither have any jurisdiction nor the authority to treat the same as a nullity and ^{to} ~~is~~ issue a fresh notification.

5. Mr. N.V. Ramana, ^{learned} Standing Counsel for the respondents has reiterated the averments made in the counter and stated that the respondents having noticed the irregularity in the selection were justified in initiating action for the purpose of conducting a fresh selection and it was for that purpose that notification dated 23.3.1991 was issued.

6. The record relating to the selection of the candidates would reveal that the competent authority having carefully considered the comparative merit of the contending candidates ^{Came} ~~came~~ to the conclusion that the applicant has his own house from where he ^{could} ~~would~~ operate a post office. On the otherhand Sri B. Guruwaiah did not possess own house. Keeping this factor in view the competent authority selected the applicant though Mr. B. Guruwaiah possessing ^{ed} ~~ing~~ the higher qualification of

To

1. The Secretary to Government, Union of India,
Dept.of Posts, New Delhi.
2. The Postmaster General, Hyderabad.
3. The Superintendent of Post Offices,
Wanaparthi Division, Wanaparthi.
4. One copy to Mr.K.S.R.Anjaneyulu, Advocate, CAT.Hyd.
5. One copy to Mr.N.V.Ramana, Addl.CGSC.CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

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S.S.C. compared to the 8th standard of the applicant.


7. There is no dispute that the applicant herein possessed the minimum required qualifications and other requirements so as to be eligible to be appointed as EDBPM. The competent selecting authority having applied his mind and having selected the applicant, the ^{selection} same cannot be unilaterally cancelled, more so after the applicant had been regularly appointed as EDBPM in ~~no~~ consequence ^{of} the selection held. Reference in this context may be made to a judgement of this Bench of the Tribunal in Mrs. Usha Kani vs. Union of India 1993 (1) ATJ 587. It was held therein that the selection of a candidate who passed 8th standard in preference to any candidate with higher qualification like S.S.C. cannot be held to be per-se illegal.

8. The applicant was subjected to a proper selection and having been selected, ^{was} ~~and~~ appointed as EDBPM, Dawajipalli on a regular basis. We, therefore, see no justification for the respondents to issue the impugned second notification dt. 23.3.91 for the purpose of filling up the same post that is being held by the applicant. The impugned notification is hereby set aside.

9. As the applicant was continuing in the post of EDBPM, Dawajipalli by virtue of our interim order dt. 1.5.91 he shall be continued in that post.

No order as to costs.



(T. CHANDRASEKHARA REDDY)
Member (Judl.)


(A.B. GORTHI)
Member (Admn.)

Dated: 11th February, 1994

(Dictated in Open Court)

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Deputy Registrar (C) cc